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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,530	02/13/2002	Michele M. Helwig	02SAPAT01U	8977

7590

10/08/2002

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EXAMINER

PIASCIK, SUSAN L

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 10/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/075,530

Applicant(s)

HELWIG, MICHELE M.

Examiner

Susan L Piascik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

PETER M. BOON
SUPERVISING PATENT EXAMINER
TECHNICAL CENTER 3600

pmf

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 6-8, 14-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlitz.

In regards to **claim 1**, Schlitz teaches an animal soothing system comprising a bedding structure (unnumbered) for animals to lie upon. The bedding structure (unnumbered) has a pocket (18) formed therein. A soothing means (25) for generating rhythmic soothing vibrations (see column 1, lines 38-40) is removably disposed in the pocket (18) in order to communicate the vibrations to the animal lying upon the bedding structure (unnumbered).

Regarding **claim 2**, Schlitz discloses an animal soothing device wherein the soothing means (25) comprises a heartbeat simulator device (see column 1, lines 38-40).

In regards to **claim 6**, Schlitz teaches an animal soothing device wherein the bedding structure includes filler material (12, 16) and a cover (10) surrounding the filler material (12, 16). The cover (10) has an access opening (22) for access to the interior thereof and to the filler material (12, 16). A pocket (18) is formed in the filler material (12,16).

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Regarding **claim 7**, Schlitz teaches an animal soothing system wherein the pocket (18) comprises an open cavity formed in the filler material (12, 16).

In regards to **claim 8**, Schlitz teaches an animal soothing system wherein the bedding structure has an upper face, upon which an animal may lie, and an opposed lower face to be received against a supporting surface. The pocket (18) and the soothing means (25) disposed therein are adjacent to the upper face of the bedding structure.

In regards to **claim 14**, Schlitz teaches an animal soothing system wherein the rhythmic vibrations comprise sound waves (see column 1, lines 38-40).

In regards to **claim 15**, Schlitz teaches an animal soothing system wherein the sound waves are generated in a pattern simulating the sound of a beating heart (see column 1, lines 38-40).

Regarding **claim 17**, Schlitz teaches an animal soothing system wherein the rhythmic vibrations comprise a combination of tactilely perceptible vibrations and sound waves (see column 1, lines 38-40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5, 13 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlitz in view of Lee.

In regards to **claim 3**, Schlitz discloses the claimed invention except for specifying that the soothing means is battery operated. However, Lee teaches a similar device comprising a means for producing rhythmic vibrations. Lee discloses that the heartbeat simulator (12) device is battery powered (column 2, lines 60-65). Therefore, it would have been obvious to modify the soothing means of Schlitz, to include the simulator powered by batteries, as taught by Lee, in order to avoid dangerous wires or other safety hazards present with electrical systems.

Regarding **claim 4**, Schlitz teaches the claimed invention, yet fails to specify the exact means of producing the heartbeat simulations. However, once modified to include the simulator of Lee, as shown in the claim above, Schlitz teaches the a heartbeat simulator including a pressure sensitive switch (30 – Lee) for activation thereof when the animal places its weight upon the bedding structure and for deactivation thereof when the animal removes its weight from the bedding structure.

In regards to **claim 5**, Schlitz teaches an animal soothing system wherein the bedding structure includes a cover (10), filler material (12) and a pocket (18). However, Schlitz fails to teach the pocket (18) in the cover (10). Lee also teaches a soothing system having a cover (unnumbered), filler material (unnumbered) and a pocket (88) in the cover of the device. Therefore, it would have been obvious to one having ordinary skill in the art to modify the bedding structure of Schlitz, to incorporate the pocket in the cover of the structure, as shown by Lee, so that the soothing device is easily accessible for maintenance.

In regards to **claim 13**, Schlitz teaches a soothing system wherein the filler material (12, 16) has a first face (12) and a second face (16) and the cover (10) has a first face (unnumbered) and a second face (unnumbered). The first face of the cover (unnumbered) is adjacent to the first face of the filler material (12) and the second face of the cover (unnumbered) is adjacent to the second face of the filler material (16). The pocket (18) is formed in the filler material (12) at the first face. Schlitz fails to describe the soothing means in detail. However, Lee teaches a soothing means comprising a thin plate (22) adjacent to the soothing means (12). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the soothing means of Schlitz, to incorporate the structure taught by Lee, so that the animal may easily trigger the soothing system. Further, the limitation of the plate extending substantially over the first face of the filler, would have been obvious since a change in size is generally recognized as being within the level of ordinary skill in the art.

In regards to **claim 18**, Schlitz discloses an animal soothing system comprising a soothing means (25) for generating soothing rhythmic vibrations (see column 1, lines 38-40). Schlitz also teaches containment and positioning means (10) for containing the soothing means (25) and for positioning the soothing means (25) between the animal and a surface upon which the animal reclines. Schlitz fails to teach the specific mechanism used to produce the vibrations. However, Lee discloses a similar soothing system wherein the soothing means (12) includes a pressure sensitive switch (30) for activating the generation of the vibrations when pressure, such as the weight of an animal, is applied to the switch. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the soothing system

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disclosed by Schlitz, to incorporate the switches and overall structure, disclosed by Lee, so the apparatus is easily activated by a young animal.

Regarding **claim 19**, Schlitz, as modified in the previous claim, teaches a soothing system wherein the soothing means comprises a heartbeat simulator and wherein the containment and positioning means comprises animal bedding for animals to recline on.

In regards to **claim 20**, Schlitz, as modified, fails to teach a wearable structure for holding the soothing means. However, as shown in the Lee reference, fabric may be modified to include a pocket (88) capable of holding the soothing means. Therefore, one having ordinary skill in the art at the time of the invention would have found it obvious to place the soothing means in any apparatus containing pockets and easily accessible to the body of an animal.

Claims 9 and 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schlitz.

In regards to **claim 9**, Schlitz discloses the claimed invention except for specifying the pocket and soothing means adjacent to the lower face of the bedding structure. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to relocate the device, since it has been held that rearranging parts of an invention involves only routine skill in the art.

In regards to **claim 16**, Schlitz teaches the claimed invention except for specifying the sound waves to simulate a cat purring. However, since the device is created to simulate the mother of a young animal, it would have been obvious to one having ordinary skill in the art to

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include sounds other than a heartbeat in order to pacify the young animal since these mechanisms are art-recognized equivalents.

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlitz in view of Eakin.

In regards to **claims 10-13**, Schlitz discloses the claimed invention except for specifying the bedding structure to comprises a mattress. However, Eakin teaches a soothing system found in mattress, pillows and various other materials used for furniture. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the bedding structure disclosed by Schlitz, to take the form of a mattress, pillow or padding, as taught by Eakin, to ensure the animal is comfortable while in contact with the soothing system.

Citation of Relevant Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of art with respect to soothing apparatus:

U.S. Pat. No. 2,859,731 to Sutton

U.S. Pat. No. 4,257,408 to Ramey

U.S. Pat. No. 4,649,861 to Elkins et al.

U.S. Pat. No. 4,947,832 to Blitzer

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U.S. Pat. No. 5,007,410 to DeLaney

U.S. Pat. No. 5,784,995 to Willinger

U.S. Pat. No. 5,865,771 to Shuto et al.

U.S. Pat. No. 6,142,963 to Black et al.

U.S. Pat. No. 6,173,675 to Licciardo

U.S. Pat. No. 6,189,487 to Owen et al.

U.S. Pat. Publication No. 2002/0,095,103 to Blue

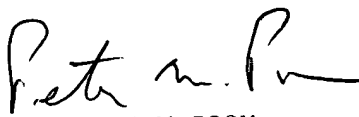
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan L Piascik whose telephone number is (703)305-0299. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703)308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-7687 for regular communications and (703)305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-7687.

slp
September 30, 2002


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